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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/519,179	NICHOLS, EVELYN	
	Examiner	Art Unit	
	John D. Scarito	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05/13/2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

The following is Examiner's response to Applicant's amendment received 05/13/2008 stemming from Examiner's Office Action dated 11/15/2007.

Status of the Claims

As per Applicant's response, Examiner acknowledges that Applicant (1) amended Claims 1-4, 7-15, 17, 18 & 20. Here, Claims 5, 6, 16 & 19 are presented as originally filed, but are considered amended due to their dependence on amended claims. As such, Claims 1-20 are currently pending.

Response to Remarks/Arguments

Minor Claim Objections

Examiner withdraws his minor claim objections in the Office Action of 11/15/2007 in view of Applicant's amendments/arguments.

Statutory Grounds of Rejection

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 1-3, 7, 8, 13, 17, 18 & 20 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Examiner withdraws said §112-2nd paragraph rejections in the Office Action of 11/15/2007 in view of Applicant's amendments.

With respect to Applicant's comments on Claim 1, Examiner notes that Applicant's claims do not speak of "excess loan proceeds" [Applicant's Response, page 6, line 20]. Further, Applicant's claims do not contemplate "(1) in excess of the purchase price, or (2) in excess of the required loan amount, defined as the purchase price less any down payment made by, or to the benefit of, the borrower." [Applicant's Response, page 6, last line-page 7, lines 1-2] nor "are specifically allotted and allocated for that purpose". [Applicant's Response, page 7, line 7].

With respect to Applicant's comments on Claim 7, reference to Claim 1 is irrelevant since Claim 7 is an independent claim. [Applicant's Response, page 8, line3]. Here, Claim 7 does not require there be "ONE loan" [Applicant's Response, page 8, line 2]. Further, Applicant speaks of "[i]n addition to paying interest on the loan, borrower shall also have the right to receive interest on the investment vehicle purchased as part of the loan process" [Applicant's Response, page 8, lines 13-14]. This is simply not supported by Applicant's claim language.

With respect to Applicant's comments on Claim 12, Examiner notes that Applicant's claims do not speak of "an 'excess' amount ranging up to 20% of the 'base' amount" [Applicant's Response, page 9, line 10].

With respect to Applicant's comments on Claim 18, reference to Claim 7 is irrelevant since Claim 18 is an independent Claim. [Applicant's Response, page 9, line 20].

Further, Examiner is perplexed by Applicant's interpretation of "substantially". The use to which Applicant refers [See Applicant's Response, page 9, line 21-page 10 line 3] is reserved for open ended language such as "comprising".

With respect to Applicant's comments on Claim 20, Examiner notes that Applicant's claims do not speak of "application for the policy". [Applicant's Response, page 10, line 6]. If this is a "critical" it should be in the claims. [Applicant's Response, page 10, line 7].

Claim Rejections - 35 USC § 101

Examiner notes Applicant's consideration of Application 10/561,661, as pointed out by Examiner, and Applicant's intent to file a Terminal Disclaimer if this Application's claims are deemed allowable. [See Applicant's Response, page 10, line l4].

Claim Rejections - 35 USC § 103

Claims 1-13, & 15-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Christie et al (5,819,230).

Applicant's arguments filed 05/13/2008 have been fully considered but they are not persuasive.

Examiner notes that Applicant aims to highlight "distinctions between the programs" [Applicant's Response, page 10, line 22, i.e. between Applicant's invention and the invention of Christie ('230)]. However, Applicant appears to highlight differences which are not in his/her amended claims.

For instance, Claim 1 as currently drafted does not require the mortgage loan principle amount as having any relation to a "purchase price" [Applicant's Response, page 11, line 2]. Applicant states "to cover cost" [see Claim 1] but does not consider a possible down payment, etc. (e.g. the amount to cover cost of said real estate may be interpreted as less than the real estate purchase price).

Further, said rejection is of the obviousness type. In this vein, Christie ('230) does not have to explicitly state that the mortgage loan amount is more than "100% of the property purchase price" [see generally Applicant's Response, page 11, line 5] as Applicant seems to imply.

Here, Examiner asserts that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In this vein, Examiner does not see anything in Applicant's claims, for example, which require any particular "insurance carrier" [Applicant's Response, page 11, line 8] or the insurance policy be "connected to, or even required by the loan [Applicant's Response, page 11, lines 9 & 18].

Next, Examiner does not see anything in Applicant's claims which indicate, for example, "all of the 20% 'excess' is used to fund an investment vehicle" [Applicant's Response, page 12, line 5] or that the annuity and policy are "managed by a single insurance company" [Applicant's Response, page 12, line 12] or that it be "portable, and can be moved to another property" [Applicant's Response, page 13, lien 17-18] or "the borrower may use the cash value to subsidize up to 80% of the monthly payment" [Applicant's Response, page 14, lines 4-5].

Examiner notes that this list is for example only and that other "distinctions" not in the claims are evident.

Lastly, Applicant's discussion of system distinctions is unpersuasive given that Applicant does not claim a system.

Claim 14 was rejected under 35 U.S.C. 103(a) as being unpatentable over Christie et al (5,819,230) in view of Ryan et al (5,673,402).

Applicant did not individually address said Claim but merely concluded it, without support, as allowable based on his previous arguments.

Claims 19 and 20 were rejected under 35 U.S.C. 103(a) as being unpatentable over Christie et al (5,819,230) in view of Kavanaugh (09/986,670) [Pub. No.: 2002/0087365].

Applicant did not individually address said Claim but merely concluded it, without support, as allowable based on his previous arguments.

Examiner Note: Applicant admits that "such differences do not appear in all of the claims" and that he/she does "not intend[] by mentioning any such unclaimed distinctions to create any implied limitations in the claims". [Applicant's Response, page 17, lines 14-16]. In this vein, Examiner must, as Applicant appreciates, consider "the actual claim language" during his examination. In this vein, Applicant must amend to include his "distinctions" in his/her claims to further distinguish his/her invention from the prior art of record. Examiner asserts that the art of record still reads on Applicant's current claim language and repeats his rejection below.

Response to Amendments

Minor Claim Objections

Claims 1, 3, 6-8, & 18 are objected to because of the following informalities:

1. As per Claim 1, "said mortgage loan application" lacks clear antecedent basis. Further, Examiner questions whether Applicant intended "to said seller" in lieu of "of said seller" in step e).
2. As per Claim 3, Examiner questions how said claim further limits Claim 2 (i.e. the lender is still holding the investment vehicle as collateral).
3. As per Claim 6, "at least one" lacks antecedent basis.

4. As per Claim 7, "said amounts" lacks clear antecedent basis. Examiner suggests "said principle loan amount and said additional loan amount". Further, Applicant omitted "vehicle" at the end of step h).
5. As per Claim 8, Examiner suggests that Applicant refer to the principle loan amount and the additional loan amount separately not unlike he/she introduced them to avoid ambiguity.
6. As per Claim 18, Examiner suggests "comprising" in lieu of "comprised of" for clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per Claim 1, Examiner questions whether "funds" in step f) is the rest of the funds or a portion of the funds, etc. Further, Applicant does not have a step where borrower pays off the mortgage in order to "receive full ownership interest".

As per Claim 7, Examiner questions whether "increments" refers to the amount being repaid or the period between payments.

As per Claim 9, Examiner questions whether "substantially all of" refers to just said principle loan amount or both said principle loan amount and said additional loan amount.

As per Claims 2-6 & 8-17, said Claims are rejected as they depend from a rejected claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Here, the state of the law with respect to statutory subject matter eligibility under §101 is evolving and is presently an issue in several cases under appeal at the Federal Circuit with regard to process claims. As presently understood, based on Supreme Court precedent and recent Federal Circuit decisions, [see *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)] a §101 statutory process must (1) be tied to another statutory class (e.g. such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing. If neither of these requirements is met, a method is not a patent eligible process under §101 and should be rejected as being directed to non-statutory subject matter.

For example, a method claim that recites *purely mental steps* (e.g. can be performed by mental process or human intelligence alone) would not qualify as a statutory process. To qualify as a §101 statutory process, the claim should (1) positively recite another statutory class (e.g. thing or product) to which it is tied (e.g. by identifying the apparatus

that accomplishes the method steps) or (2) positively recite the subject matter that is being transformed (e.g. by identifying the material that is being changed to a different state).

As per Claim 1, Examiner asserts that said method steps could be performed by merely mental steps (e.g. can be performed by mental process or human intelligence alone). Here, Applicant does not adequately tie his/her steps to another statutory class to qualify as a §101 statutory process. Applicant should consider what is "identifying"?, what is "applying"?, what is "having"?, what is "receiving"?, what is "forwarding"?, what is "purchasing"?, and what is "providing"?. For purposes of amendment, Examiner notes a mere recitation of a "system" or "network" would be inadequate as it could, reasonably, be broadly interpreted to include a group of people using their mental capacities. Further, nominal or token recitations of structure in an otherwise ineligible method fail to make the method a statutory process.

As per Claims 2-6, said Claims are rejected as they fail to correct the deficiency of Claim 1 above.

As per Claim 7, said Claim also fails to tie its steps to another statutory class. Applicant should consider what is "determining"?, what is "providing"?, what is "purchasing"?, and what is "receiving"?

As per Claims 8-17, said Claims are rejected as they fail to correct the deficiency of Claim 7 above.

As per Claim 18, said Claim also fails to tie its steps to another statutory class. Applicant should consider what is "having"?, what is "providing"?, what is "purchasing"?, what is "applying"?, and what is "making"?.

As per Claims 19-20, said Claims are rejected as they fail to correct the deficiency of Claim 7 above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-13, & 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christie et al (5,819,230).

As per Claim 1, Christie et al ('230) teaches the method as follows:

a. identifying real estate owned by a seller [Abstract, "information concerning…the products they have purchased or for which they are applying" & column 1, line 7, "home"];

b. applying for mortgage loan [Abstract, "for which [participants] are applying" & column 1, line 8, "mortgage type loan"];

c. having said mortgage loan application approved; [Abstract, "selects mortgage applicants financially eligible to participate in the combined program"]

e. forwarding funds equivalent to said cost of said real estate from said mortgage loan principal amount to said seller; [see Figure 4C, element 292, "Payment to former owner of purchased home and/or former owner's lender."]

g. providing mortgage payments for a loan term; ["monthly mortgage payments" see column 2, lines 1-2, & "completion of payments on the mortgage", column 7, line 37]

However, Christie et al ('230) does not specifically disclose as follows:

d. receiving a mortgage loan principal amount to cover cost of said real estate and the investment vehicle; Regardless, Christie et al ('230) does disclose an analogous practice where "[a] larger than standard loan [e.g. more than the real estate purchase price] is required" where "a portion of the traditional down payment is used to purchase an insurance company annuity policy, with [less] of the down payment being paid to the home seller." [see column 1, lines 64-67]. As such, it would have been obvious to one of ordinary skill in the art, at the time of Applicant's invention, to offer a borrower a mortgage loan for more than the real-estate purchase price for the purpose of covering a linked investment vehicle. An investor would be motivated to offer more loan money to any eligible borrower given that contemplated risks are secured by said investment [this is the point of Christie et al's "combination program"]. This is not unlike offering a mortgagor a second mortgage.

f. purchasing the investment vehicle with funds from said mortgage loan principal amount; Regardless, under the logic of (d) above, investors would not likely be motivated to provide further funding without it being secured by some form of collateral

(investment vehicle) or private mortgage insurance [column 1, line 27]. This is especially true given the option of a down payment in Christie et al ('230) and Applicant's invention.

h. receiving full ownership interest in said at least one investment vehicle and said real estate.

Regardless, if a loan is paid off in (g), the collateral interests of mortgagees (real estate and any investment vehicles used as collateral) detach and full ownership attaches to the mortgagor (with full interest). [see Figure 4E, (318) & column 5, line 65].

As per Claim 2, Christie et al ('230) teaches the method of Claim 1 above. Further, Christie et al ('230) teaches lender holding the investment vehicle as collateral against said mortgage loan prior to step (h). [column 5, lines 13-16, "the mortgage lender is secured by the non-traditional collateral associated with the combined mortgage and life insurance program administered by the present invention."]

As per Claim 3, Christie et al ('230) teaches the method of Claim 2 above. Further, Christie et al ('230) teaches holding of the investment vehicle as collateral by the lender. [column 5, lines 13-16, "mortgage lender is secured"].

As per Claim 4, Christie et al ('230) teaches the method of Claim 3 above. Further, Christie et al ('230) teaches the lender is a system practitioner. [see Figure 1, mortgage originator (112) is a type of lender (110). Per Applicant, a "system practitioner" includes "an originator of mortgage loans" (see Applicant's Specification, pg 5, line 11)]

As per Claim 5, Christie et al ('230) teaches the method of Claim 2 above. Further, Christie et al ('230) teaches making periodic payments against said mortgage loan. [see Figure 1, "Monthly Payments" from Homeowner Funds (128) to Lender(s) (110).].

As per Claim 6, Christie et al ('230) teaches the method of Claim 5 above. However, Christie et al ('230) does not specifically disclose [that] when unable to make said periodic payments, funds are applied from said at least one investment vehicle to said mortgage loan equal to said periodic payment. Regardless, Christie et al ('230) appreciates that investment vehicles (insurance policy, annuity contracts) have "cash value [that] grow[] over the life of [a] loan" and that "cash drawn from the [investment vehicle] is [often] treated as a loan" [see column 1, line 39 and 53-55 & column 2, lines 3-4]. As such, given that lenders have control of the investment asset (possession of an attached security interest), it would have been obvious to one of ordinary skill in the art, at the time of Applicant's invention, that funds (equivalent to one or more periodic payments) are deductible from the cash value of said investment assets. One of skill in the art would be motivated to "cover" one or more missed borrower payment(s) to avoid the costs of default proceedings. Further, one would not likely wish to liquidate the whole investment asset due to a temporary delinquency in payment(s) or an erroneously missed payment. Further, established secured transactions law, with appropriate attachment and perfection of a security interest, would afford a lender such rights.

As per Claim 7, Christie et al (230) teaches the method as follows:

a. determining by the lender a principal loan amount to be provided to the borrower; and b. determining by the lender an additional loan amount to be provided to the borrower; [Christie et

al ('230) teaches that "[a] larger than standard loan" (more than just principal) may be required when purchasing a house if part of a down payment is utilized to buy an investment vehicle to secure the loan. See column 1, line 63-37 One of skill in the art would appreciate that such amounts would be "determined" prior to issuing a mortgage.].

c. determining by the lender a repayment term to repay said principle loan amount and said additional loan amount to the lender; [Christie et al ('230) teaches that "mortgage loan term[s]" are utilized. See column 1, lines 48 & 36. One of skill in the art would appreciate that said term would be "determined" prior to issuing a mortgage.].

d. providing by the lender at least some of said principal amount; [Christie et al ('230) teaches that a lender often provides the remainder of a purchase price not paid by a borrower. See column 1, lines 21-22].

g. providing loan repayment increments for said amounts during said repayment term; ["monthly mortgage payments" see column 2, lines 1-2, & "completion of payments on the mortgage", column 7, line 37]

h. receiving from the investment entity an interest in said at least one investment. [Christie et al ('230) teaches that the borrower ultimately holds an interest in the investment vehicle as he/she gains "released" amounts when the "loan is [no longer] outstanding" column 5-6, lines 64-3. As such, both the lender and the borrower have interests at some point in the loan term.]

However, Christie et al ('230) does not specifically disclose:

e. providing by the lender at least some of said additional loan amount to an investment entity; and f. purchasing by the borrower at least one investment vehicle with funds from said additional

loan amount; Regardless, Christie et al ('230) appreciates that "[a] larger than standard loan" (more than just principal) may be required when purchasing a house if part of a down payment is utilized to buy an investment vehicle to secure the loan. See column 1, line 63-37. Examiner notes that one of skill in the finance art would, for all practical purposes, interpret this as (1) the lender subsidizing the down payment or (2) the lender subsidizing the actual investment vehicle.

> For example, if borrower has $30 and wants to buy a house worth $150, he would have to conventionally provide a down payment of $30 (20% to avoid PMI) and get a loan for $120. However, if the negotiable terms of the agreement (given risks) necessitate the purchase (by the borrower) of an investment vehicle, worth $15, to further secure the mortgage [ex. insurance annuity policy, See Christie et al ('230), column 1, line 65], the lender would still have to loan borrower $135 (larger than standard loan) regardless of whether the extra $15 was used to initially buy the investment vehicle or later used for a complete down payment. The money is needed by said borrower and spent either way.

As such, it would have been obvious to one of ordinary skill in the art, at the time of Applicant's invention to modify Christie et al ('230) to include a borrower or lender providing an additional loan amount to an investment entity for the purchase of appropriate investment vehicles. One would be motivated to provide said additional loan amount directly to said entity to avoid processing costs of middlemen and the inefficiency of money changing hands with an opportunity for loss. Further, only said entity is likely able to provide such investment vehicles.

As per Claim 8, Christie et al ('230) teaches the method of Claim 7 above. Further, Christie et al ('230) teaches said loan of said amounts is a real estate mortgage. [column 1, lines 7-8, "purchasing a home using a mortgage type loan"]

As per Claim 9, Christie et al ('230) teaches the method of Claim 8 above. Further, Christie et al ('230) teaches said lender suppl[ying] substantially all of said principal loan amount and said additional loan amount. [Examiner notes that this necessarily flows from the Christie et al ('230) disclosure (if a borrower is "financially eligible", see Abstract) for such loan as discussed in Claim 7 above (e.g. principal and additional amount). Practically, commonly known loans necessitate such a transfer. See Title "Funding Asset Purchase *and* Insurance Policy" (emphasis added)].

As per Claim 10, Christie et al ('230) teaches the method of Claim 9 above. Further, Christie et al ('230) teaches the lender takes an interest in said at least one investment vehicle as collateral against said real estate mortgage. [column 5, lines 13-16, "the mortgage lender is secured by the non-traditional collateral associated with the combined mortgage and life insurance program administered by the present invention."]

As per Claim 11, Christie et al ('230) teaches the method of Claim 9 above. Further, Christie et al ('230) teaches using a system practitioner for collecting application criteria from the borrower prior to step (c). [see Figure 1, a "mortgage originator" (112) is a type of lender (110). Per Applicant, a "system practitioner" includes "an originator of mortgage loans" (see Applicant's Specification, pg 5, line 11) and see column 3, lines37-45, "mortgage originator…[determines participants based on] the mortgage application…" & column 6, lines 45-50, "stores (collecting) information about…prospective homebuyers who have applied to participate"]

As per Claim 12, Christie et al ('230) teaches the method of Claim 11 above. Further, Christie et al ('230) teaches said system practitioner providing said principal loan amount and said

additional loan amount to an escrow entity prior to step (f). [Given the logic of Claim 7, a principal amount and additional amount would be provided. Further, Christie et al ('230) contemplates the use of an escrow entity in the mortgage loan process. See Figure 1 (124), & column 11, lines 1-7 and column 12, lines 19-27]

As per Claim 13, Christie et al ('230) teaches the method of Claim 12 above. Further, Christie et al ('230) teaches said escrow entity providing said substantially all of aid principle loan amount to the seller [see column 12, lines 19-27, "escrow agent [receives] beginning funds [] from the homebuyer and the mortgage loan funds…and distributes a portion of those funds to the former owner of the purchased home.] However, Christie et al ('230) does not specifically disclose [said escrow entity providing] said additional loan amount to the investment entity. Regardless, Christie et al ('230) does disclose providing a portion of funds to an entity other than the home seller. [see column 12, lines 19-27, "escrow agent [receives] beginning funds [] from the homebuyer and the mortgage loan funds… A portion of the funds will be distributed to the mortgage insurance company, either for payment of the first premium or for full or partial prepayment of the entire policy.] Therefore, under the logic of Claim 7 above, a lender could provide a portion of funds marked for distribution to an investment entity. As such, it would have been obvious to one of ordinary skill in the art, at the time of Applicant's invention, to modify Christie et al ('230) to include providing additional amounts to an investment entity via an escrow entity. One would be motivated to utilize an escrow agent in this process because it is customary to do so in real estate transactions for security and certainty in the transaction.

As per Claim 15, Christie et al ('230) teaches the method of Claim 13 above. Further, Christie et al ('230) teaches the investment entity is a financial institution not related to the system practitioner. [Christie et al ('230) teaches that "mortgage originators" (system practitioner) refer "financially eligible" participants "to the program coordinator" who coordinates the "combined program" with a separate "life insurance company participating in the program" (see column 3 lines 36-46)]. In this vein, such a relation may be legally questioned per Claim 14 analysis below.

As per Claim 16, Christie et al ('230) teaches the method of Claim 7 above. Further, Christie et al ('230) teaches said investment vehicle is one of: an annuity [column 1, line 65 & Abstract "7-pay life insurance policy"]; a single premium immediate annuity; a universal life policy; a certificate of deposit [column 3, line 59]; a guaranteed interest contract; a mutual fund; a savings account [column 5, line 37]; a zero coupon bond; a municipal bond; a variable life policy [column 9, line 15]; a whole life policy [column 9, line 15]; a financial security investment.

As per Claim 17, Christie et al ('230) teaches the method of Claim 7 above. However, Christie et al ('230) does not specifically disclose said additional loan amount is not more than 20 percent of said principal loan amount. Regardless, Christie et al ('230) does disclose that the "primary goal of the present invention [is] to provide…a mortgage and life insurance combination program in which all or a portion of the funds normally used as a down payment typically equal to at least 20% (twenty percent) of the home purchase price, are used [to purchase an investment vehicle]." [see column 2, lines 43-49]. Given the logic of Claim 7 above, an additional amount (larger than a standard loan) could comprise this "at least 20%" (this depends on what is negotiated given the participant risks and whether

a down payment is optionally applied). A prudent investor would be motivated to require security on a loan of at least 20% of the purchase price to avoid PMI. [see column 1, lines26-27]. As such, it would have been obvious to one of ordinary skill in the art, at the time of Applicant's invention, to modify Christie et al ('230) to include loaning an additional amount substantially equal to 20 % of said principal loan amount for the purchase of an investment vehicle to secure the total mortgage loan.

As per Claim18, Christie et al ('230) teaches the method as described in Claim 1 above. One of skill in the art would appreciate that the language of Claim 18 fully reads on the language of Claim 1 (ex. "a principle amount and an investment amount"="mortgage loan principle amount", "equivalent to said cost of said real estate"="principal amount", "cost of…at least one investment vehicle"="investment amount", "providing mortgage payments"="making periodic payments", and "concurrently accumulating equity…and an interest"="receiving []ownership interest"). Practically, Claim 1's full ownership requires the encompassed methods of Claim 18 for a loan term.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christie et al (5,819,230) in view of Ryan et al (5,673,402).

As per Claim 14, Christie et al ('230) teaches the method of Claim 13 above. However, Christie et al ('230) does not specifically disclose the investment entity is the system practitioner. Regardless, Ryan et al ('402) discloses that is possible for lenders to sell investment products [see Background (in the UK), columns 1 & 2]. Further, Ryan et al ('402) highlights that "[i]n the United States, federal statutes forbid most lenders from selling

insurance. Also, most states have laws forbidding tie-in sales of mortgages. A tie-in sale occurs when a lender insists that a borrower buy a particular insurance product from a particular life insurance company." [column 2, lines 43-48]. As such, it would have been obvious to one of ordinary skill in the art, at the time of Applicant's invention, to modify Christie et al ('230) to include a system participant as the investment entity. Although this may prompt legal issues, one of skill in the art would ultimately be motivated to encourage investment vehicle purchases as security for a loan. Having such purchases as part of the loan process would surely be more efficient and less costly.

Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christie et al (5,819,230) in view of Kavanaugh (09/986,670) [Pub. No.: 2002/0087365].

As per Claim 19, Christie et al ('230) teaches the method of Claim 18 above. However, Christie et al ('230) does not specifically disclose a first and second investment vehicle, wherein said first investment vehicle is an annuity, and said second investment vehicle is an insurance policy. Regardless, Kavanaugh ('670) teaches a method where two such investment vehicles are purchased and a method of "funding life insurance policies using annuities" [see Abstract]. In line with Christie et al ('230), Kavanaugh ('670) contemplates such investment vehicles (including an immediate annuity, paragraph 6) being "purchased at least in part using borrowed money" [see Abstract]. As such, it would have been obvious to one of ordinary skill in the art, at the time of Applicant's invention, to modify Christie et al ('230) to include a first and second investment vehicle including an annuity and an

insurance policy. One would be motivated to combine such vehicles in such a way given the U.S. Internal Revenue Code [see paragraph 5] and tax advantages [see paragraph 10]. As per Claim 20, Christie et al ('230), as modified by Kavanaugh ('670), teaches the method of Claim 19 above. However, Christie et al ('230) does not specifically disclose purchasing said annuity, followed by applying said insurance policy, as security for said loan amount. Regardless, Kavanaugh ('670) teaches that an annuity and an insurance policy can be purchased with borrowed funds and that the annuity later funds the insurance policy premiums. [paragraph 15]. In this vein, Christie et al ('230) does teach that an investment vehicle (insurance policy) is held as collateral. [column 5, lines 13-16, "the mortgage lender is secured by the non-traditional collateral associated with the combined mortgage and life insurance program administered by the present invention."] As such, it would have bee obvious to one of ordinary skill in the art, at the time of Applicant's invention, to modify Christie et al ('230) to include the purchasing of an annuity and insurance policy with borrowed money while utilizing the insurance policy as collateral for the loan. A prudent investor would be motivated to collateralize only the insurance policy (due to its cash out value) or both the annuity and the insurance policy (to ensure the future integrity of the insurance policy) depending on the amount of security required and the risks involved (down payment, interest rate fluctuations, etc) in making the loan.

Prior Art

The following prior art, made of record but not relied upon, is considered pertinent to applicant's disclosure: Madden (6,345,262), Atkins (5,852,811), and Lloyd (4,876,648).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John D. Scarito whose telephone number is (571) 270-3448. The examiner can normally be reached on M-Th (7:30-5:00), Alternate F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached on (571) 272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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